



**Response to the Utility Regulator
Supplier of Last Resort (Electricity)
Consultation on Dealing with Customer Credit Balances**

June 2017

1 Introduction

- 1.1 The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (NI) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland (NI).
- 1.2 The Consumer Council welcomes the opportunity to respond to the Utility Regulator (UR) Supplier of Last Resort (Electricity) Consultation on Dealing with Customer Credit Balances. The proposals include also security deposits.

2 Consultation questions

Q1. Do you agree that the scope of any protection measures implemented to resolve issues with regard to outstanding credit balances due to a Supplier of Last Resort (SoLR) event should only apply to domestic consumers?

- 2.1 The Consumer Council believes the UR should extend the proposed protection measures set out in this consultation to micro business in the 0-10MWh or 0-50MWh market segments.
- 2.2 Evidence suggests that the UR assertions in point 4.5 of the consultation paper are not necessarily representative of small businesses in NI. In March 2016 we undertook research into the small businesses energy sector in NI. Our research included discussions with small business representatives. From our discussions we concluded that small businesses share characteristics with domestic consumers in their engagement with the energy market.
- 2.3 As with domestic consumers they are less likely than large businesses to make informed, risk based decisions. Typically small businesses do not have the time nor resources to engage in negotiation with energy suppliers. They are likely

to be passive or react to simple price based marketing without regularly reviewing the market.

Q2. Which of the proposed approaches do you consider most suitable for resolving the issue of the coverage of the protection for customers with outstanding credit balances? Please provide supporting information and evidence for your response. If you have an alternative proposal, please provide sufficient detail for further analysis.

2.4 We are of the opinion that the measure of success of a SoLR can be determined by the following:

1. Ensuring that the lights remain on;
2. Affected consumers are not out of pocket; and
3. Energy retail market retains consumers' trust and confidence.

2.5 The *"no"* and *"capped"* reimbursement options are certain to leave non-keypad customers out of pocket. The only difference between both options would be the extent of the financial loss.

2.6 From a consumer confidence perspective, both options are also likely to lead to consumer dissatisfaction and mistrust. During the Open Electric (OE) SoLR event in December 2016, 13 customers contacted The Consumer Council prior to the announcement by the UR that all credits on accounts would be reimbursed, expressing concern about losing the credit on their accounts. This suggests that SoLR events have the potential to have a negative impact on consumers' trust of energy suppliers and confidence in the competitive energy market.

2.7 One of the key measures of effective competition is the level of customer switching. All industry stakeholders have an interest in ensuring that consumer confidence in the switching process is high. The UK and NI Governments, the

energy industry, the UR, the media and The Consumer Council have consistently encouraged switching supplier on the basis that it is simple and safe. Allowing customers to lose some or all of their money through no fault of their own will undermine this message and will weaken competition.

- 2.8 It is also fundamentally unfair on consumers, who have switched to save money, and have been assured by reputable and independent sources that the process is safe and their interests are protected.
- 2.9 It is to provide this protection for individual consumers and maintain confidence in the competitive market that regulation exists. An example of this type of protection at a higher financial level is the £80,000 savings guarantee the UK Government introduced in the wake of the financial crash of 2008.
- 2.10 We are also concerned that these options do not treat consumers equally and provide them with different levels of protection. Keypad customers retain any credit that is on their meter when they are transferred to another supplier and they are not required to pay a deposit.
- 2.11 *“Full reimbursement of customers in credit”* and outstanding deposits is the only option that will deliver on all three criteria. The UR consultation paper states that 37% of OE customers that were transferred to Power NI switched to another supplier within 10 weeks. These figures suggest that a policy of full reimbursement provided consumer confidence in the retail market despite the closure of OE.
- 2.12 We consider the success of the December 2016 SoLR process, including the decision to reimburse outstanding credit balances, provided consumers with confidence that they will maintain their electricity supply and that they will not be out of pocket. Therefore, The Consumer Council asks the UR to implement *“Full reimbursement of customers in credit”* as being the only option that

protects consumers and the development of the energy market. We support the UR proposal to include security deposits under this framework.

2.13 Point 7.7 of the consultation paper warns that the success of a mechanism to reimburse credit balances and deposits to consumers depends on the *“failing supplier”* providing the SoLR with the relevant account balance data. Therefore it is essential that the UR can enforce effectively any requirements. The Consumer Council supports the UR proposal to strengthen the provisions under condition 10 of the electricity supply licence, by requiring all suppliers to include in their Terms and Conditions a clause advising customers of the company’s obligation to pass account data information to the SoLR if the UR revokes its licence.

2.14 The UR consultation paper makes reference to *“switched customers with credit balances”*. During the OE SoLR event The Consumer Council assisted two consumers who switched from OE but had not received the closing credit on their account.

2.15 Such consumers will experience the same level of financial detriment and should receive the same level of protection as those consumers with credit balances that have not switched supplier. We understand that under the law as it currently stands the UR has no power to intervene once the company has gone into administration. We suggest that the UR should consider how it could work with the industry and any other relevant parties to rectify this anomaly of process.

Q3.If you consider that capped domestic reimbursement is the most suitable approach for resolving the issue of coverage for outstanding credit balances, please provide your views on how the capped amount should be calculated.

2.16 The Consumer Council does not believe that *“capped reimbursement”* is the most suitable option.

Q4.Which of the proposed approaches do you consider most suitable for resolving the issue of payment options for outstanding credit balances. Please provide supporting information and evidence for your response. If you have an alternative proposal, please provide sufficient detail for further analysis.

2.17 The Consumer Council echoes the UR view that under the current arrangements, the nominated SoLR has the opportunity to acquire a new customer base *“without incurring any customer marketing and acquisition costs.”* Furthermore, unlike GB, the UR does not operate a process to nominate the SoLR whereby suppliers must compete on the terms they will offer consumers.

2.18 The Consumer Council believes that it is fair that the nominated SoLR makes a significant contribution to the funds required to reimburse credit account balances to reflect the benefits it will get. However, we cannot ignore the evidence that Power NI lost 37% of the customers it had acquired in the OE SoLR event within ten weeks. But we also are of the view that former OE customers are likely to be more informed and more likely to switch than most consumers as they have already switched to a very small supplier that undertook little marketing. Therefore they are not representative of all NI consumers.

Q5.If you consider that the SoLR should pay a fixed amount per customer acquired through the SoLR event, please provide your views on how the amount paid for each customer should be calculated.

2.19 We support in principle a hybrid model as proposed in points 7.4 and 7.5 of the consultation paper. Whilst the designated SoLR is providing a service to consumers, it benefits from the additional profit which has been gained with no acquisition costs. The split between the contribution of the designated SoLR and an industry wide levy should reflect this. It is also important that customers

of the designated SoLR do not pay twice, ie as a customer of the designated SoLR and as a customer within the industry wide levy.

3 Conclusion

3.1 The Consumer Council welcomes the proposals that UR has put forward to increase consumer protection in the event that the SoLR mechanism must be triggered. We reiterate our commitment to continue working with the UR, NIE Networks and the designated SoLR to improve the processes and the consumer information in this area.

If you require further information or you wish to discuss any aspect of this response please contact Paulino Garcia on 02890 251645 or Paulino.Garcia@consumercouncil.org.uk.



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